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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,848	10/20/2000	Jeffrey S. Hamilton	T712-10	8779
27832	7590	01/26/2006	EXAMINER REKSTAD, ERICK J	
TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME 2003 SOUTH EASTON RD SUITE 208 DOYLESTOWN ROAD, PA 18901			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/694,848	<b>Applicant(s)</b> HAMILTON, JEFFREY S.	
	<b>Examiner</b> Erick Rekstad	<b>Art Unit</b> 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-42 is/are allowed.
- 6) ☒ Claim(s) 16-25 and 29-36 is/are rejected.
- 7) ☒ Claim(s) 26-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is a Final Rejection for application no. 09/694,848 in response to the After Final received December 15, 2005 where in claims 16-42 are presented for examination.

#### ***Information Disclosure Statement***

The information disclosure statements (IDS) submitted on August 5, 2005, August 6, 2005 and November 3, 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Double Patenting***

Claims 26 and 27 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 37 and 39. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-25 and 29-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,611,624 to Zhang et al.

[claim 16]

Zhang teaches the insertion of a second stream for a first stream by determining the available bandwidth and recoding the second stream in order to fit the bandwidth. Zhang further teaches the stream is within a statistically multiplexed bitstream (Col 11 Line 43-Col 12 Line 30). Zhang does not specifically teach the second stream is an advertisement. Zhang teaches the prior art of inserting advertisements into a digital stream (Col 1 Lines 37-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the method of Zhang for inserting an advertisement as Zhang teaches such a use as a real application in the prior art.

[claims 17 and 30]

Zhang further teaches the use of splice points in order to perform the splicing of the first stream with the second stream (Col 4 Lines 35-41 and 50-58). It would have been obvious to one of ordinary skill in the art at the time of the invention to include splice points in a profile for splicing in order to splice encoded streams as taught by Zhang.

[claims 18 and 31]

As stated above the second bitstream is re-encoded based on the maximum bandwidth of the first stream (Col 12 Lines 8-10). It would have been obvious to one of ordinary skill in the art at the time of the invention that the avail rate includes at least

some subset of a maximum bit rate and a minimum bit rate as these values are used to re-encoded the second bitstream.

[claims 19 and 32]

Zhang specifically teaches the second bit rate is “shaped” to fit into the available bandwidth left open by the first stream (Col 12 Lines 9-10). Zhang further teaches the bit streams are variable (Col 11 Lines 58-63). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention that the profile was time varying as variable bit rate streams are time varying.

[claims 20 and 21]

As shown above, the avail rate for the second stream is limited by the first stream’s rate profile (Col 12 Lines 1-30).

[claims 22 and 33]

Zhang teaches the use of null packets in order to splice the streams (Col 12 Lines 17-25).

[claims 23, 24, 34 and 35]

Zhang teaches the use of the splicing in order to splice a first stream in a multiplexed bitstream with a second stream as shown above. As shown above, Zhang teaches the use of the method in order to splice advertisements into a stream (Col 1 Lines 37-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the method of Zhang on multiple streams in the multiplexed bitstream in order to add advertisements to any number of the streams (Official Notice). Note, by following the method of Zhang the bit rate for each stream will not exceed its

bit rate and therefore if two streams are being spliced at the same time both will not exceed the combined bit rate.

[claims 25 and 36]

Zhang further teaches re-encoding other streams in the multiplexed bitstream in order to allow the second stream to have a bit rate that exceeds the bit rate of the first stream (Col 12 Lines 10-17).

[claim 29]

Zhang teaches the system for inserting the second stream as shown in Figure 6. The system contains a Seamless Splicer (606) which performs the splicing. This splicer comprises a means to compress (Fig. 16) the second stream based on the first stream and insert the second stream (Fig. 9) (Col 10 Lines 53-67, Col 11 Line 43-Col 12 Line 30, Col 14 Lines 9-19). Zhang further teaches that one skilled in the art would recognize that the components of the recording unit could also be variably controlled to provide variable bit rate conversion using the recording unit (Col 11 Lines 34-38). It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the system of Zhang in order to provide a variable rate coding means as suggest by Zhang.

### ***Allowable Subject Matter***

Claims 26-28 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Note, claims 26 and 27 have been objected to above as being a substantial duplicate of claims 37 and 39.

Claims 37-42 are allowed.

### ***Conclusion***

Applicant's amendment received March 3, 2005 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

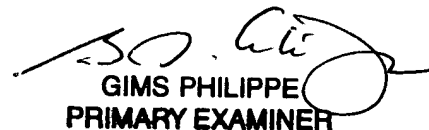
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick Rekstad whose telephone number is 571-272-7338. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2613

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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